BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
	)	**CC Docket No. 97-250**
Tariffs Implementing	)	
Access Charge Reform	)	
	)	

REBUTTAL OF THE SBC COMPANIES

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TABLE OF CONTENTS

SUMMARY*

The Oppositions to the SBC Companies' Direct Case do not raise any issues warranting further investigation and should be dismissed. The Direct Case details full responses to the questions posed by the Commission, and the Oppositions fail to substantively contest those responses.

MCI and AT&T express their dissatisfaction with the primary line definitions used by the SBC Companies, as well as the definitions used by most of the other LECs. These oppositions should be stricken. All that is occurring in this docket is a review of whether the LECs have properly implemented the definitions of "primary line" that they were allowed to create. The proper definition of primary line is not, and cannot be, properly at issue in this docket since no single definition has yet been issued by the Commission. The Commission has instituted a separate proceeding just for that reason, and MCI and AT&T must not be allowed to outmaneuver the process ordered by the Commission.

AT&T and MCI also argue about whether further changes to the LECs' common line rates are warranted due to historic BFP levels. As shown by the SBC Companies' Direct Case, however, and as uncontested by these oppositions, no adjustment to SWBT's (the only SBC LEC at issue on this aspect of this docket) common line rates is needed.

The SBC Companies' removal of port costs from Local Switching was correct. MCI and AT&T ask for a methodology that would not really remove "costs," but would

*All abbreviations used herein are referenced within the text.

instead remove some arbitrary amount. There is no argument that price cap revenues no longer have any close relation to costs. Part 69 revenue requirement at the authorized rate of return has always been accepted as a reasonable measure of exogenous costs and should be accepted here.

The SBC Companies' recalculations of the TIC were correct. AT&T and MCI now wish to have the Commission change the terms of the Access Charge Reform Order because they are dissatisfied with the results it brings. These wishes should be dismissed.

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REBUTTAL OF THE SBC COMPANIES

I. INTRODUCTION

Pursuant to the Designation Order,[1] released January 28, 1998 by the Federal Communications Commission (Commission), Southwestern Bell Telephone Company (SWBT), Pacific Bell, and Nevada Bell (collectively, the SBC Companies), hereby respond to the oppositions[2] filed against their Direct Case in this proceeding. None of the oppositions as they apply to the access tariffs filed by the SBC Companies raise any significant question of lawfulness, and the investigation should be concluded without further action by the Commission.

II. COMMON LINE ISSUES

A. Primary/Non-primary Residential Line Issues

AT&T and MCI now assert that the Commission should abandon the distinction between primary and non-primary residential lines and set a flat-rated charge for all residential and single

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[1] Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, (DA 98-151) (Com. Car. Bur., rel. January 28, 1998) (Designation Order).

[2] Oppositions were filed by AT&T Corp. (AT&T), MCI Telecommunications Corp. (MCI), and ITC^DeltaCom, Inc. (ITC).

line business lines.[3] While this issue is outside the scope of those designated for investigation, the SBC Companies welcome AT&T's and MCI's apparent support for the position taken by the SBC Companies in their appeal of the Access Charge Reform Order[4] before the U. S. Court of Appeals for the 8th Circuit. As noted by the briefs of the SBC Companies and other petitioners, the Commission's subscriber line charge (SLC) and presubscribed interexchange carrier charge (PICC) structure calls for multi-line customers to subsidize single-line customers in violation of the Telecommunications Act of 1996. Nevertheless, given the limited scope of this investigation under the Designation Order, the SBC Companies have implemented this flawed rate structure as best they can. AT&T's and MCI's recognition that it is flawed should be seen as further reason that the Commission should ask for a voluntary remand of this issue from the 8th Circuit to correct its error.

AT&T also complains that the SBC Companies failed to complete the Appendix B Worksheet, or to explain their primary line definition.[5] AT&T is mistaken. Attached as Exhibit A is a copy of the SBC Companies' Appendix B and their explanation of how they determine primary lines, as filed with the SBC Companies' Direct Case.

MCI argues that the Commission should find that Pacific Bell's non-primary line count is unreasonable, and should, at a minimum, prescribe a non-primary line count to be used in Pacific Bell's rate development that equals the average non-primary line count of the other RBOCs that have employed a "by account" classification scheme.[6]

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[3]AT&T at p. 4; MCI at p. 2.

[4]Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 (rel. May 16, 1997) (Access Charge Reform Order).

[5]AT&T at p. 7.

[6]MCI at p. 3.

MCI is unjustified and wrong in its request. For the Commission to prescribe an alternative methodology prior to its decision on primary and non-primary residential lines would unfairly disadvantage Pacific Bell by requiring significant billing changes which could likely be reversed, or at least altered, when the order defining primary and non-primary lines in this investigation is provided by the Commission. In the Designation Order the Bureau stated its purpose was to determine reasonableness and once a definition is promulgated "the price cap LECs may be required to make prospective adjustments in order to comply with the new definition."[7] The Direct Case process should serve merely as the basis from which the Commission gathers information necessary to make its decision. Once the Commission issues its order clearly defining primary and non-primary residential lines, the SBC Companies will make the necessary changes, should any be necessary.

MCI and AT&T both assert that the Commission should require a "service address" definition of primary lines.[8] This claim should be rejected as a proper subject only for rulemaking. Further, the "service address" definition fails to provide for the possibility of multiple families living at a service location. Verification of these types of living arrangements would be nothing short of intrusive if not administratively impossible for the local exchange carriers (LECs). The SBC Companies' applied definition remains the only reasonable definition because it clearly identifies a line that is provided as a "basic" telephone line regardless of single family versus multi-family living arrangements.

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[7] Designation Order at para. 14.
[8] AT&T at p. 5; MCI at p. 4.

MCI also claims that the "LECs have not been providing the PICC billing information required by the Second Reconsideration Order."[9] The SBC Companies have made available, by request, the PICC Line Detail Report. For Pacific and Nevada Bell, the report was developed using OBF standard guidelines. For SWBT the report was developed using a standard reporting format, however not to the OBF standard. SWBT is making the necessary changes to meet the OBF standard and anticipates that the conversion will be completed in June, 1998. Attached hereto as Exhibit B are sample copies of these reports.

B. Assessment of PICCs on Inward-only Lines

ITC, in contradiction to AT&T and MCI, claims that inward-only lines should be exempted from a PICC assessment, and that if it is necessary to charge a PICC on inward-only lines, ITC claims the LEC is the entity that must bill and collect the charge directly from the end user as no interexchange carrier (IXC) is presubscribed to those lines and no information is being furnished to allow ITC to track and audit the PICC changes.

ITC misconstrues the reason the PICC was created, as well as the practicalities of its application. The SBC Companies were not ordered to exempt any classes of service other than Lifeline customers who elect toll blocking from the application of the PICC.[10] Since a portion of the end-user line is considered interstate, a portion of the line cost is subject to interstate recovery under the existing rules. The Commission intended that all IXCs to which end-users

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[9]MCI at p. 4.

[10]Federal-State Joint Board on Universal Service; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge, CC Docket No. 96.45; CC Docket Nos. 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, (FCC 97-420) (rel. December 30, 1997) at para. 122.

presubscribe be required to contribute to common line cost recovery in this manner. ITC apparently wants the Commission to exempt a particular type of service from the application of the PICC, but that can only be done in the context of a rulemaking proceeding to alter the Access Charge Reform rules. The creation of such an exemption is outside the scope of this proceeding.

In any event, if ITC pays PICCs due to presubscribed inward-only lines, ITC is entitled to decide how it should recover its costs from end-users. If an end-user has PIC'd ITC, that end user has probably PIC'd ITC for other lines on which it uses ITC's service, and for which ITC earns profits. ITC should not be heard here to complain about such end-users. The inward-only customer is no different than the customer that presubscribes a local line to ITC and then proceeds to use dial-around services for all of its interexchange calls. The Commission contemplated such cases in paragraph 93 of the Access Charge Reform Order, and cited the "customer contact value" of being an end-user's PIC as justification for assessing the PICC to the PIC even in such cases where the end-user "dials-around" to make its calls.

C. Adjustment of Common Line Revenues Because of Alleged Historic Understatement of BFP.

AT&T claims that LECs' current common line charges are overstated by $56 million in 1998.[11] However, AT&T later corrects itself[12] to claim that the $56 million overstatement is actually an overstatement of current (1997/98) carrier common line (CCL) charges with the alleged common line revenue overstatement being $47 million for the 1996/97 period.[13] AT&T

[11]AT&T at p. 9.
[12]AT&T at p. 12.
[13]AT&T at fn. 22 and AT&T Exhibit CCL-2.

requests that the Commission require LECs to "immediately reduce their overstated CCL rates to the appropriate levels."[14]

As the SBC Companies demonstrated in their Direct Case, and as AT&T acknowledges in its Exhibits, SWBT's portion of the alleged $56 million CCL overstatement is actually an understatement of $.9 million.[15] SWBT's portion of the alleged $47 million common line overstatement is actually an understatement of $.8 million.[16] Therefore, to the extent the Commission determines that current CCL charges are overstated and should be reduced (which is unwarranted in any event), such an adjustment would not apply to SWBT's rates since they are not overstated.[17]

III. METHODOLOGY FOR CALCULATING EXOGENOUS COST CHANGES FOR LINE PORTS AND END OFFICE TRUNK PORTS

AT&T claims that the Access Charge Reform Order requires the use of a revenue-based methodology to remove port costs from the Local Switching category.[18] Since AT&T agrees with the Commission that "Part 69 revenue requirements no longer represent what the price cap

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[14]AT&T at p. 13.

[15]See AT&T Exhibit CCL-1, 1997-98.

[16]See AT&T Exhibit CCL-2.

[17]AT&T's Exhibit CCL-1, page 4, that displays alleged "Excess CCL Billing," contains an error that significantly overstates the 1993/94 amount. AT&T claims the amount is $25,573,388 based on a 1993 Annual Filing proposed CCL rate of $.007580 compared to a recomputed rate of $.006687. As clearly noted on SWBT Exhibit RCCL-1 page 6 in the SBC Companies' Direct Case, these rates never became effective, being replaced by the CCL rates adjusted for the effects of GSF. As shown on Exhibit RCCL-2, the correct CCL rate comparison was between the filed rates of $.01 and $.010263 and the recomputed rate of $.009997, resulting in a revenue difference of $4.4 million rather than $25.6 million.

[18]AT&T at p. 16. MCI also agrees that the best measure of costs for this purpose is revenue. (MCI at page 8) MCI's claim (that the Section 69.106(f)(1) rule requires that LECs must separate port costs from Local Switching revenues), however, actually supports the use of a Part 69 cost-based quantification of port costs. (page 9)

LECs are actually recovering from their access customers in the local switching band",[19] AT&T must also agree that Local Switching revenues are not a measure of Local Switching cost recovery. Therefore, the Access Charge Reform Order's requirement (that NTS port costs associated with local switching should be recovered on a flat-rated basis) can only be met by initializing port rates based on costs rather than revenues.

MCI claims that a revenue-based measure of costs is required because LEC rates "reflect some measure of costs" under price cap regulation and because those rates are "limited by a price cap index that tracks changes in LEC productivity."[20] This argument is incorrect. The measure of costs reflected by price cap rates is not service or rate element specific and the measure of productivity reflected is a benchmark level rather than a LEC-specific level. Therefore, if the objective is to recover some particular costs from a specific rate element (either new or existing), then costs, rather than revenues that do not reflect the recovery of specific service costs, must be measured.

Part 69 revenue requirement at the authorized rate of return has always been accepted as a reasonable measure of exogenous costs and should be accepted in this case. As the SBC Companies pointed out in their Direct Case, a distinction can be made between removing rate elements/services from price cap regulation, which by definition requires the removal of the revenue associated with the rate elements/services being removed, and the quantification and allocation of costs among price cap baskets.[21]

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[19]AT&T at p. 17.
[20]MCI at p. 8.
[21]SBC Direct Case at p. 9.

IV. TRANSPORT ADJUSTMENT ISSUES

A. The SBC Companies are Not Attributing Too Large a Fraction of Their Tandem Switching Revenue Requirement to SS7 Costs

MCI again claims that STP port costs must be deducted from the SS7 revenue requirement.[22] As the SBC Companies stated in their Direct Case, the Commission's Access Charge Reform Order did not require such an adjustment.[23]

B. The SBC Companies Made the Proper COE Maintenance and Marketing Cost Adjustments to the TIC

AT&T continues to claim that many price cap LECs have reallocated their COE and marketing expense based on the TIC as it existed after July 1, 1997, and therefore have under-assigned marketing and COE maintenance exogenous cost adjustments to the residual TIC, and have failed to accurately identify the residual and facility-based cost amounts that are subject to the excess targeting true up.[24] The SBC Companies explained their reasons for using the June 30, 1997 TIC amounts in their Direct Case. AT&T provides no substantive reason why the SBC Companies' reading of the Access Charge Reform Order is incorrect.

C. The SBC Companies Properly Estimated the Impact on the TIC Arising from the Use of Actual Minutes of Use Rather than Assumed 9000 Minutes of Use

AT&T claims that the LEC's direct cases confirm that their recalculations of the TIC are in error.[25] The SBC Companies do not deny there is a significant difference in the results between the methodology required for the initial access reform filings and the methodology

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[22]MCI at pp. 12-13.
[23]SBC Direct Case at p. 11.
[24]AT&T at p. 23.
[25]AT&T at pp. 24-26.

prescribed in the Designation Order. This difference in results, however, does not confirm that the LEC's initial recalculations are in error. The difference in results merely indicates the methodology in the Access Charge Reform Order was not the methodology actually intended by the Commission.

The SBC Companies have complied with the requirements of both the Access Charge Reform Order and the Designation Order to make the calculations requested. The differences only confirm two different methodologies will yield two different results.

MCI argues that some LECs are now claiming that their 1996 circuit usage was well in excess of 9000 minutes and that the Commission should require these LECs to recompute their 1993 tandem-switched transport rates using the circuit-loading figure they provided to the Commission in their comments in the access reform proceeding.[26]

MCI is, in effect, requesting a reconsideration of the Access Charge Reform Order. MCI's suggestion is to require LECs to utilize previously filed data. MCI's request simply ignores the current rule. MCI's request must be rejected as outside the scope of this proceeding.

MCI claims that the Access Charge Reform Order does not permit the LECs to increase the TIC if they chose to reduce their tandem-switched transport rates. In addition, MCI claims that SWBT did not include the DS3/DS1 multiplexer in computing new tandem switched transport rates.[27]

As shown in its Direct Case, the SBC Companies properly estimated the impact on the

[26]MCI at p.15
[27]MCI at pp. 15-16.

TIC arising from the use of actual minutes of use (MOU) rather than assumed 9000 MOU. In the event a retroactive index adjustment is implemented, LECs should be allowed to adjust all index values, including, if necessary, an upward adjustment of the TIC. In addition, SWBT addressed the issue of multiplexers in its Direct Case.[28] MCI has chosen not to comment on SWBT's explanation.

D. The SBC Companies Correctly Recalculated the Residual and Facilities-Based TIC Amounts

AT&T continues to erroneously claim that Nevada Bell's methodology to determine whether a TIC targeting reversal was required is incorrect.[29] AT&T's method produces a comparatively minor difference ($43 thousand) in the computed amount of excess TIC targeting, with this minor difference attributable to errors in AT&T's methodology that AT&T refuses to acknowledge. As the SBC Companies demonstrated in their Direct Case, the sole purpose of this computation is to determine whether any reversal of the TIC targeting in the 1997 Annual Filing needed to be reversed. As the Commission recognized, a reversal was only required if the remaining total TIC revenue stream, after all relevant exogenous cost reductions, was less than the required facilities-based TIC amount that will be reassigned in the future (when no non-facilities based TIC exists). Since the required facilities-based TIC amount of $1,569,141 for Nevada was undisputed by AT&T, the only issue is whether the exogenous cost amount removed from the current TIC revenue stream was correct.

[28]SBC Direct Case at pp. 16-17.
[29]AT&T at pp. 26-29.

The exogenous cost amount removed from the TIC ($2,561,838) was clearly shown in the SBC Companies' Description and Justification and TRP exogenous costs form and included the TIC's proportional share of general support facility (GSF) costs. As shown in the Direct Case (Exhibit TICALC), use of AT&T's uncorrected methodology based upon a 6/30/97 TIC starting point results in a targeting reversal amount of $1,550,487. (Line 8) Using the SBC Companies' method based upon a current TIC starting point results in a targeting reversal of $1,507,341. (Line 8A) AT&T's persistence is misplaced in claiming that their methodology, a methodology that actually over reverses the prior TIC targeting and thus creates a non-facilities based TIC amount, is correct. It is also difficult to understand why AT&T believes that universal service fund (USF) exogenous costs were not included in the TIC when the Supplemental EXG-2 form clearly shows that USF costs were allocated to the undesignated trunking basket category, of which the TIC gets its proportional share.

V. CONCLUSION

For the foregoing reasons, the investigation in this docket should be concluded without further action by the Commission as to the tariffs of the SBC Companies.

Respectfully submitted,

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March 23, 1998

CERTIFICATE OF SERVICE

I, Kathy Moody, hereby certify that the "Rebuttal of the SBC Companies" has been served on March 23, 1998, to the Parties of Record.

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March 23, 1998

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DIRECT CASE OF THE SBC COMPANIES

I. INTRODUCTION

Pursuant to the Designation Order,[1] released January 28, 1998 by the Federal Communications Commission (Commission), Southwestern Bell Telephone Company (SWBT), Pacific Bell (Pacific), and Nevada Bell (Nevada) (collectively, the SBC Companies), hereby respond to the issues listed for investigation. None of the issues as they apply to the access tariffs filed by the SBC Companies raise any significant question of lawfulness, and the investigation should be concluded without further action by the Commission.

II. COMMON LINE ISSUES

A. Non-primary Residential Line Issues

The Common Carrier Bureau (Bureau) admits that the Commision has not yet adopted a uniform nationwide definition of primary and non-primary residential lines. Nevertheless, the order asks SWBT to explain fully its definition of primary and non-primary residential lines, including any assumptions that went into these definitions. In the Direct Case, SWBT is invited

[1] Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, (DA 98-151) (Com. Car. Bur., rel. January 28, 1998) (Designation Order).

to submit modified, expanded, or clarified definitions as necessary. SWBT is to make clear what lines these definitions include and the manner in which they would be identified, such as by account number(s), billing number(s), customer name, location, or by whatever sorting method was used.[2]

SWBT considers a line a primary residential line if it is a line with a residence class of service, billed on a single line account. In addition, a line is considered to be a primary residential line if it is a line with a residence class of service that is single account billed as part of a multi-line or multi-party service. A line is considered to be a non-primary residential line if it has a residence class of service, is billed as part of a multi-line or multi-party service and is not the first line on the account and is classified as an additional line. A line is classified as an additional line any time there is already at least one working line present at the time it is installed in a single family living unit. For example, if two lines in the same living unit appear on the same bill, the account would be considered multi-line or multi-party service. The first line would be considered primary and the second line would be classified as non-primary. Another example involves two lines in a single-family living unit, but the lines are billed on separate bills. Because both lines would be considered single line service, both lines would be considered primary.

The Designation Order requires the LECs to identify the number of lines in each of the following categories: (1) primary residential lines; (2) single-line business lines; (3) non-primary residential lines; and (4) BRI ISDN lines. The SBC Companies have provided this detailed information in the requested format in the attachment entitled "LINES." The data shown is for the base year of 1996.

[2]Designation Order at para. 15.

In addition, using Appendix B to the Designation Order, each LEC's direct case must delineate what, how, and in which order data were sorted and used in accordance with its definition to arrive at the primary and non-primary residential line count totals. Also, each LEC must include an explanation of why its definition is reasonable.[3]

Exhibits SWBAPPB, PACAPPB and NEVAPPB provide the information requested in Appendix B of the Designation Order. The SBC Companies' applied definition of "Primary Residential" is the only reasonable definition because it clearly identifies an end user line that is provided as a "basic" telephone line. It guarantees that each household, at a minimum, will have a primary residential line. It treats additional lines in the same house as non-primary residential with the exception of the first line for each additional multi-line or multi-party account. In the case of a multi-line or multi-party account the SBC Companies are unable to identify if the account is for single or multiple households, therefore, our definition is non-intrusive, is in the public interest, and does not advantage any party.[4]

B. Adjustment of Common Line Revenues Because of Alleged Historic Understatement of BFP.

Due to the Commission's concerns over the alleged past understatement of the base factor portion (BFP), the Designation Order directs SWBT to provide a recalculation of its maximum common line revenues, using the carrier common line (CCL) Recalculation Methodology employed by AT&T in its December 23 Petition. The Designation Order also seeks comment on this proposed methodology, and on whether this proposed methodology should be adjusted to

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[3] Designation Order at para. 7.

[4] Footnote 40 of the Designation Order cites a study by Salomon Brothers, dated November 28, 1997. The percentages in the study are not a reflection of the additional lines used for determining EUCL and PICC charges, since they appear to reflect all additional lines.